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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/721,669 | 11/25/2003 | Larry M. Cirjak | BP 7339-06 | 5945 |

7590 03/15/2005

BP America Inc.
Docket Clerk, BP Legal, M.C. 5 East
4101 Winfield Road
Warrenville, IL 60555

EXAMINER

SHIPPEN, MICHAEL L

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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1621

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,669

Applicant(s)

CIRJAK, ET AL.

Examiner

MICHAEL L. SHIPPEN

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 16-28 are rejected under 35 U.S.C. § 103 as being unpatentable over SENNEWALD (GB 1,266,623) and SENNEWALD (GB 1,266,624) optionally in view of CALCAGNO (USP 3,714,237) for reasons of record. The newly added limitations to the claims are not seen to further distinguish the claims from the prior art. The requirement that sufficient particulate catalyst be present to allow for dissipation of heat of reaction is not seen to require an amount that is any different from what is exemplified in the prior art. Merely reciting an inherent property of fluid bed catalysts does not define a catalyst that different from the prior art catalysts. The catalysts and all of its properties are one and the same regardless of whether the prior art recites all such properties. The claim limitation as to total oxygen content is not seen to be substantially different from what is taught by the prior art. The claims appear to read on the amount exemplified in the prior art, note Example 2 of the references uses 8% oxygen which is apparently within the claimed range. Note applicants' claim 26 which indicates that the amount may be 8%. Also, note the top portion of page 9 of the specification that the amount may be 8%.

Double Patenting

The rejection of claims 16-28 under the judicially created doctrine of obviousness-type double patenting over claims 1-12 of USP 5,550,281 and claims 1-17 of USP 5,710,318 has been obviate by the terminal disclaimer filed with applicants response.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael L. Shippen** whose telephone number is **(571) 272-0647**. The Examiner's normal tour of duty is 7:30 AM to 4:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(571) 272-1600**. The official group FAX machine number is **703-872-9306**.

MShippen
March 7, 2005



MICHAEL L. SHIPPEN
PRIMARY EXAMINER
ART UNIT 1621